HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.6681 of 2000

Dated 24th day of October, 2007

Between:

S. Mouneendra Reddy .. Petitioner

And

The Divisional Forest Officer
West Division, Chittoor
and two others .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the Judgment dated 23.10.1999 delivered in A.S.No.47 of 1998 by the District Judge, Chittoor, as arbitrary and illegal, and consequently direct the 1st and 2nd respondents to release the Tractor bearing No.AP03 T-493 in favour of the petitioner.

The petitioner asserts that he is the owner of the Tractor bearing No.AP03 T 493, which was leased out to the 3rd respondent vide Lease Deed dated 23.12.1996. While so, the 3rd respondent used the vehicle for a different purpose other than the purpose for which the vehicle was taken on lease, without the petitioner's knowledge, as a result, the Inspector of Police, Chittoor, registered a crime against the petitioner on 29.5.1997 under Section 32 of the A.P. Forest Act and seized the vehicle along with the Trailor on the ground that 47 logs of Sandal wood weighing about 640 kgs were alleged to have been found in the vehicle. At that time, the petitioner was not present and he had no knowledge of the affairs of the 3rd respondent. Later, the 1st respondent-Divisional Forest Officer issued the petitioner a show cause notice, for which, the petitioner gave a detailed explanation stating that he did not have knowledge about the transportation of the alleged sandal wood in his vehicle. In spite of his explanation, the 1st respondent passed an order, dated 26.2.1998 confiscating the petitioner's vehicle to the State. Now, the petitioner's grievance is that though he preferred A.S.No.47 of 1998 against the order of confiscation, the learned District Judge, Chittoor dismissed the appeal by his impugned judgment dated 23.10.1999 confirming the order of the 1st respondent.

Respondents 1 and 2 have filed counter affidavit stating that the petitioner has not filed any document or evidence showing that he had no knowledge about the offence for illegal transportation of Sandal Wood and took precautionary steps to see that the vehicle was used for lawful purpose only. When the petitioner preferred an appeal against the confiscation of the vehicle, the District Judge dismissed it confirming the order of the 1st respondent. Further, the lease deed produced before the authorized officer is an unregistered document and the petitioner failed to discharge his burden as contemplated under Section 44(2c) of A.P. Forest Act, 1967.

Heard Sri P.Srinivasulu, learned counsel for the petitioner, the learned Government Pleader for Forest and perused the material placed on record.

The petitioner produced the lease agreement establishing the fact that the vehicle in question was given on lease to the 3rd respondent for a period of one year, and admittedly, the offence took place during the lease period, that was on 29.5.1997. Hence, it cannot be said that the petitioner has knowledge about the offence. Having regard to the fact that the petitioner established the lease and the transportation was done without his knowledge, connivance or consent, this Court is of the view that the petitioner is entitled to the release of the vehicle.

In the result, this writ petition is allowed and the impugned judgment dated 23.10.1999 delivered by the District Judge, Chittoor confirming the order of confiscation of Tractor bearing No.AP03 T493 to the State is hereby quashed. As the vehicle was released during pendency of the proceedings and the petitioner furnished bank guarantee as assessed by the Motor Vehicles Inspector, the bank guarantee shall be returned to the petitioner forthwith. No costs.

24.10.2007

bcj